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Analysis of House Bill 4973 (As Introduced)

Topic: Open Meetings Act Exemption
Sponsor: Representative Fred Miller
Co-Sponsors: Representatives Accavitti, Kathleen Law and Constan
Committee: House Judiciary Committee
Date Introduced: June 21, 2007

Date Enrolled:

Date of Analysis: April 25, 2008

Position: The Department supports the bill.

Problem/Background: The Michigan Employment Relations Commission (MERC) is a quasi-judicial body whose primary function is to administer the Public Employment Relations Act. MERC adjudicates alleged unfair labor practices, disputes over bargaining unit composition, and other issues related to public employee representation. The Commission itself is comprised of three members with two members constituting a quorum. Because of this, when two members want to discuss the merits of a case pending before the Commission, the discussion must take place in an open meeting convened in accordance with the Open Meetings Act. Under Section 3(7) of the Open Meetings Act, other similar quasi-judicial bodies within state government, such as the Michigan Employment Security Board of Review, Worker's Compensation Appellate Commission, Public Service Commission and the State Tenure Commission are exempt from the public meeting requirements when deliberating the merits of a case.

Description of Bill: The bill amends Section 3(7) of the Open Meetings Act to include MERC in the list of public bodies that can meet privately when deliberating the merits of a case. The bill also deletes a provision that is obsolete as it refers to a section of the Revised Judicature Act that has been repealed.

Summary of Arguments

Pro: Those in support of the bill would argue that MERC is similar in nature to the other quasi-judicial boards and commission listed in Section 3(7) of the Open Meetings Act and should therefore, be provided the same exclusion when deliberating the merits of a case that is pending before MERC. Under the current constraints, it is difficult for any meaningful judicial deliberations to take place since the three Commissioners may only discuss the cases before them at monthly meetings. The result of the constraints have led to delays in the issuance of decisions, especially those of complex nature, as all discussions pertaining to the case can only be discussed at public meetings under the Open Meetings Act requirements.

Con: Some would argue that adding MERC to the list of agencies excluded in Section 3(7) of the Open Meetings Act further erodes the protections the Act provide to the public.

Fiscal/Economic Impact

(a) **Department** None.

(b) **State** None.

(c) **Local Government**

Comments: There is no fiscal impact on state government.

Other State Departments: None.

Any Other Pertinent Information: Senator Mark Schauer introduced Senate Bill 264, which also provides for the exemption of MERC under Section 3(7) of the Open Meetings Act. MERC would continue to hold all meetings concerning decisions and other Commission action open to the public as provided under the Open Meetings Act.

Administrative Rules Impact: The bill would have no impact on administrative rules.